



DATE: December 22, 2005

TO: Department Directors,  
Equal Employment Opportunity Officers,  
Personnel Officers, Unions and Advocate Organizations

FROM: State Personnel Board  
Merit Employment & Technical Resources Division

SUBJECT: **ROLE OF THE DEPARTMENTAL EQUAL EMPLOYMENT  
OPPORTUNITY OFFICER**

Major responsibility for ensuring that state departments comply with Governor Schwarzenegger's Executive Order S-6-04, Assembly Bill 124 as well as other federal and state non-discrimination and equal employment opportunity laws rests with the departmental Equal Employment Opportunity (EEO) Officer position. EEO Officer positions are mandated by state law and may have different working titles in various departments, e.g., EEO Officer, Civil Rights Officer, etc.

Newly revised (effective January 1, 2006) Government Code §19795(a) states in part:

*"The appointing power of each state agency and the director of each state department shall appoint, **at the managerial level, an equal employment opportunity officer ... who shall report directly to, and be under the supervision of, the director of the department,** to develop, implement, coordinate, and monitor the agency's equal employment opportunity program."*

For the purposes of this statute, an EEO Officer shall be at the managerial level (equivalent to Staff Services Manager I or higher) and shall report directly to the Appointing Power or Director of the department. The EEO Officer, among other duties, manages, administers and monitors the department's EEO program (including program and policy development) and advises the Directorate in EEO-related matters. Other factors such as department size, complexity of assigned duties, degree of responsibility, performance of supervisory and managerial activities may influence

appointment of EEO Officers at levels higher than the Staff Services Manager I equivalent.

The State Personnel Board (SPB) acknowledges this as a critical position and recognizes the need for strong and effective EEO program leadership in departments. Accordingly, this memorandum and accompanying attachments have been issued to provide guidance on the role, relationships, and characteristics of a departmental EEO Officer.

It is essential that an EEO Officer have sufficient authority and independence from other human resource and line programs to objectively monitor and assess the department's personnel policies and practices; to recommend changes to prevent discrimination and to facilitate equal employment opportunity when needed. By reporting to the Director, the EEO Officer gains the visibility and the level of support needed to ensure that the department's EEO efforts are appropriately implemented at all levels within the department. The EEO Officer should also be included in "senior staff" meetings.

Regardless of working title, all positions are responsible for ensuring that their departments have non-discriminatory employment policies and practices and provide equal employment opportunity to all job applicants and employees. Non-preferential actions that are appropriate under current legal provisions include: monitoring workforce composition, identifying underutilization problems that may indicate employment discrimination, conducting broad, inclusive recruiting, validating examinations, eliminating non-job-related minimum qualifications, conducting diversity/sensitivity training, etc.

Departments must not take non-discrimination and equal employment opportunity for granted. Each year, discrimination complaints and lawsuits cost the state millions of dollars. Discriminatory activity must be eliminated from departments' employment practices, policies and procedures. Constant attention is required to meet and maintain state and federal civil rights obligations. Departments must invest in prevention of discrimination by adequately staffing EEO offices with trained personnel. Trained professionals can help avoid costly lawsuits by keeping departmental managers and supervisors informed and trained about the latest EEO requirements, quickly identifying inappropriate employment

policies and practices for management action, and providing effective employee counseling and complaint resolution.

The following attachments describe SPB's expectations regarding the role and characteristics of a departmental EEO Officer:

- A. Role of a Departmental EEO Officer
- B. Key Relationships of a Departmental EEO Officer
- C. Competencies of a Departmental EEO Officer
- D. Criteria for Evaluating a Departmental EEO Program
- E. Summary of Major EEO Laws
- F. Executive Order S-6-04

Comment [f1]: Added attachment

I am sure that you fully support the state's non-discrimination and EEO policy. The best way to demonstrate this support is to ensure that your department has an effective EEO Officer who will ensure that your department fully complies with all state and federal statutory and regulatory requirements. The staff of SPB is available to provide guidance and assistance to departmental Directors and EEO Officers in support of these requirements.

If you have any questions regarding this information, please contact Matilda Aidam, Manager, Office of Civil Rights at (916) 653-1276 or TTY (916) 653-1498.

Karen Coffee  
Chief

Attachments

<p style="text-align: center;"><b>ROLE OF A DEPARTMENT EQUAL EMPLOYMENT OPPORTUNITY OFFICER</b></p>
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1. Acts as a key advisor and resource to departmental management regarding Equal Employment Opportunity (EEO), Affirmative Action (AA)\* and workforce diversity matters, reporting directly to the Director. [GC §19795(a)]
2. Develops, implements, coordinates, and monitors the department EEO/AA/diversity program. [GC §19795(a)]
3. Provides departmental management with information and assistance regarding the EEO/AA/diversity program and options for implementation and compliance with laws and regulations. [GC §19795(a)]
4. Reviews departmental policies and procedures to ensure there is no illegal adverse impact against employees in any racial/ethnic, gender or disability category. [GC §19795(a)]
5. Manages the discrimination complaint system, including monitoring the performance of counselors and/or investigators; maintains tracking systems, records, and appropriate posting requirements and periodically evaluates the discrimination complaint system. [GC §19795(a)]
6. Monitors and evaluates occupational areas to identify significant underutilization of employees by racial/ethnic, gender and disability categories. [GC §19797]
7. Develops, coordinates and monitors action plans designed to identify the causes of underutilization problems and to eliminate illegal employment barriers. [GC §19797]
8. Proposes personnel management policies, procedures and practices (i.e., recruitment, hiring, retention, etc.) [GC §19795(a)]
9. Participates in outreach/recruitment planning and evaluating the results of efforts. [GC §19795(a)]
10. Coordinates with the departmental personnel, training and labor relations offices, and employee unions regarding development and implementation of departmental upward mobility programs. [GC §19401 and §19795(a)]

\*Affirmative Action continues to be a federal requirement for all contractors and subcontractors receiving federal funds as well as for the employment of persons with disabilities at the state level.

11. Annually submits to the State Personnel Board (SPB) by July 1 the following:
  - (a) an annual evaluation of the effectiveness of the total EEO/AA/diversity program, identifying underutilization of racial/ethnic and gender groups, and an action plan for eliminating non-job-related employment barriers;  
[GC §19795(a)]
  - (b) an annual evaluation of the departmental upward mobility program and upward mobility employment goals; [California Code of Regulations (CCR) §547.86]
  - (c) an annual departmental employment goal for persons with disabilities;  
[GC §19232]
12. In conjunction with the training office, assists with the development of EEO/AA/diversity programs, human relations, cultural awareness and sensitivity training; monitors and evaluates the effectiveness of such training efforts. [GC §19795(a)]
13. Participates with the training and personnel offices in planning, implementing, and evaluating upward mobility programs for departmental employees.  
[GC §19401 and §19795(a)]
14. Serves as a liaison/facilitator with community and advocate organizations in dealing with EEO/AA/diversity issues. [GC §19795(a)]
15. Acts as a liaison between the department, SPB and other state or governmental agencies and private entities on EEO/AA/diversity matters.  
[GC §19795(a)]
16. Provides direction and acts as a resource to departmental EEO/AA/diversity advisory committees, e.g., the Disability Advisory Committee, the Upward Mobility Advisory Committee, etc. [GC §19795(a)]
17. Assists employees, managers, and supervisors by monitoring and coordinating reasonable accommodation requests. [GC §§19230, 19232 and 19795(a)]

<p><b>KEY RELATIONSHIPS OF A DEPARTMENTAL EQUAL EMPLOYMENT OPPORTUNITY OFFICER</b></p>
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**1. Director and Top Management**

The EEO Officer shall report directly to and be under the supervision of, the Director of the department, as required by Government Code (GC) §19795(a).

The EEO Officer:

- a. Reviews proposed employment policies for non-discrimination EEO implications and identifies potential compliance issues for consideration by top management;
- b. advises on employee complaints and grievances relating to discrimination or other EEO matters;
- c. works with management to identify and eliminate significant underutilization of employees by racial/ethnic, gender and disability group caused by discriminatory personnel policies and practices;
- d. functions as liaison between the Director and advocacy organizations concerned with EEO issues; and
- e. provides expertise regarding proposed legislation affecting EEO.

**2. Personnel Office**

The EEO Officer:

- a. Advises on broad recruitment and selection strategies to facilitate the provision of equal employment opportunity to all groups of job applicants;
- b. identifies artificial barriers in the classification plan and selection program and works with the personnel office in conducting occupational availability analysis, job restructuring, examination plan review, test validation efforts, and other studies to identify and recommend alternatives;
- c. coordinates with the personnel officer and staff to ensure that recruitment, selection, and classification activities are made a part

of the departmental planned actions for ensuring equal employment opportunity for all qualified job applicants;

- d. assists managers and supervisors in exploring the various alternatives that can be used in filling vacancies which will further EEO/AA/diversity program objectives.
- e. coordinates with the personnel office, the department's broad recruitment of qualified employees who will further diversity in the department for examinations administered by the department; and
- f. assists the departmental examination manager to ensure that interview panel members are aware of EEO requirements and are sensitive to departmental diversity needs.

**3. Labor Relations Office**

The EEO Officer assures that EEO/AA/diversity objectives are not adversely affected by labor agreements reached through the collective bargaining process, and consults on grievances that involve EEO issues.

**4. Departmental EEO Advisory Committees (including Disability Advisory Committees (DAC)**

The EEO Officer:

- a. Functions as a liaison between the Director and committees;
- b. provides leadership and guidance;
- c. proposes a process to select committee members to ensure that the diversity of interests of departmental employees are represented;
- d. provides information regarding the department's workforce composition, underutilization problems, and efforts to eliminate inappropriate employment barriers; and
- e. assists in the interpretation of EEO policies, laws and rules.

**5. Training Office**

The EEO Officer:

- a. Coordinates the development and conduct of diversity sensitivity training for managers, supervisors and other departmental employees;

- b. coordinates the provision of technical training for EEO office staff;
- c. coordinates the provision of technical training in employment law for departmental managers and supervisors; and
- d. coordinates the development, implementation, and evaluation of the department's upward mobility program to ensure equal opportunity for employees in lower paying occupations to advance within the department.

**6. Advocacy Groups and Community Based Organizations**

The EEO Office:

- a. Functions as a liaison between the department and the organizations on EEO issues;
- b. enlists support and assistance for inclusive recruitment efforts;
- c. functions as an information resource; and
- d. develops strategies for community outreach.

**7. State Personnel Board Staff**

The EEO Officer:

- a. Functions as a liaison between the department and the SPB staff;
- b. works with SPB staff in monitoring the department's workforce representation, identifying underutilization problems, and developing action plans to address problem areas;
- c. consults with the SPB staff regarding existing and proposed changes in the state's EEO program and policies;
- d. coordinates with SPB staff to assure compliance with state and federal civil rights laws;
- e. provides SPB staff with information concerning the department's discrimination complaints; and
- f. cooperates with SPB staff in evaluating the discrimination complaint process and in assessing discrimination complaint costs to the state.



<p><b>COMPETENCIES OF A DEPARTMENT EQUAL EMPLOYMENT OPPORTUNITY OFFICER</b></p>
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1. Ability to gain the professional and personal confidence of the department's Director, other management staff and departmental employees.
2. Knowledge of the department's administrative resources, formal and informal decision-making processes, operating procedures, and how EEO interfaces with the department's mission.
3. Familiarity with the department's organization and mission, and those individuals primarily responsible for decisions regarding employment within the department.
4. Possess credibility in tandem with the ability to maintain confidentiality and impartiality;
5. Ability to secure and maintain the confidence and cooperation of line managers.
6. Ability to work effectively with all levels of staff and management.
7. Awareness of the cultural and employment issues of minorities, women, older persons and persons with disabilities.
8. Knowledge of diversity programs, diversity sensitivity training, and managing diversity in the workplace.
9. Ability to analyze and interpret federal and state laws, rules and landmark court decisions regarding EEO and the implications of these issues for the department's EEO program.
10. Understanding of the history of civil rights.
11. Knowledge of personnel resources and avenues available within state service to facilitate EEO, such as: recruitment and retention techniques, selection procedures, human resource programs, employment demonstration projects and the state's classification and personnel management system.
12. Ability to establish and maintain cooperative working relationships with community-based organizations.

## **ATTACHMENT C - CONT'D**

13. Ability to provide assertive leadership in gaining support for program goals and objectives.
14. Knowledge of the state's discrimination complaint and reasonable accommodation processes.
15. Ability to be a "change agent" (including the ability to apply conflict management techniques) within the culture of the organization.
16. Knowledge of mediation and other conflict resolution strategies and resources.
17. Ability to utilize workforce analysis and related employment data to project future workforce needs.
18. Ability to fairly and objectively identify areas of underutilization within the department and take appropriate corrective measures.

<p style="text-align: center;"><b>CRITERIA FOR EVALUATING A DEPARTMENTAL EQUAL EMPLOYMENT OPPORTUNITY PROGRAM</b></p>
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1. A current EEO plan exists that outlines the selection and appointment processes designed to correct underutilization in those classes/job categories below relevant labor force parity, as required by Government Code (GC) §19797.
2. The department annually evaluates its workforce representation, identifies significant underutilization problems and submits its plan for addressing problems to the SPB no later than the July 1 of each year as required by GC §§19232, and 19790, and the plan is approved by the SPB.
3. Steady annual progress is made to reduce significant underutilization of employee group representation, as required by GC §§19790, 19794, and 19797.
4. The Director meets regularly with the EEO Officer to consult on EEO issues and to actively monitor the effectiveness of the departmental EEO program. [GC §19794]
5. Proactive steps are taken by the Director to ensure a discrimination-free work environment as evidenced by the fact that:
  - (a) Departmental policies are posted and/or have been distributed to all managers, supervisors, employees;
  - (b) managers, supervisors and employees have received diversity training;
  - (c) discrimination complaints are efficiently and effectively remedied;
  - (d) a discrimination complaint process is operational; and
  - (e) the discrimination complaint manager, investigators and counselors have current skills.

GC §§12940, 18952, 19701, 19702 and - CCR §§54.2 and 547.1
6. Proactive steps are taken to ensure that reasonable accommodation is available to applicants and employees with physical or mental limitations [GC §19230]; departmental policies exist and employees and managers have received disability awareness training in this regard.
7. Supervisory and managerial performance review includes a performance factor on EEO that evaluates knowledge of and compliance with non-discrimination and equal employment opportunity requirements. [GC §19796]

8. The department has an EEO Officer who reports directly to, and is under the supervision of, the department Director. [GC §19795(a)]
9. A Disability Advisory Committee exists and meets regularly. [GC §19795(b)]
10. A current written upward mobility plan that is actively implemented and available to employees. [CCR §547.84]
11. Upward mobility goals are annually developed and submitted to the SPB for approval by the July 1 each year, along with an evaluation of upward mobility program accomplishments. [GC §19402, CCR 547.86]
12. Non-discrimination/equal employment opportunity policy statements and complaint processes are available to applicants and employees. Coverage should include the prohibition of sexual harassment and discrimination based on race, color, ethnicity, national origin, ancestry, sex, age, disability, religion, sexual orientation, political affiliation, marital status, or pregnancy, and the requirement to provide reasonable accommodation. [CCR §§54, 54.2, 547, and 547.1]
13. Recruitment efforts are well planned and result in pools of qualified candidates that reflect the diversity of those in the relevant labor force. [GC §19795(a)]
14. Liaison is established and maintained with pertinent employee and community-based advocate organizations that result in satisfaction by these groups that their viewpoints are heard and fairly considered. [GC §19795(a)]
15. Liaison exists between the EEO Officer and personnel and labor relations staff that allow for consideration of EEO implications with regard to personnel and labor relations actions. [GC §19795(a)]
16. Liaison exists between the EEO office and the training office regarding the provision of diversity awareness training and planning and implementing the department's upward mobility program. [GC §19795(a)]
17. Regular use is made of the Limited Examination and Appointment Program (LEAP) to provide equal employment opportunity for persons with disabilities. [GC §19230, §19795(a) and Executive Order S-04-05]
18. Department managers are kept informed about EEO progress and are provided effective technical assistance for removing barriers and implementing statutory, regulatory and departmental EEO requirements. [GC §19795(a)]

**SUMMARY OF MAJOR EEO LAWS**

Title VII, U.S. Civil Rights Act of 1964 (42 USC 2000e et seq.), Amended in 1972 and 1991

Age Discrimination in Employment Acts of 1967 and 1978 (29 USC 621)

Rehabilitation Act of 1973 (29 USC 791)

Pregnancy Discrimination Act of 1978 (42 USC 2000e[k])

U.S. Americans with Disabilities Act of 1990 (42 USC 12101)

Article I, Section 31, California Constitution (Proposition 209 – Prohibits granting of preferences based on race, ethnicity and gender in public employment, contracting and education).

California Fair Employment and Housing Act G.C. §§12900-12996

**California Civil Service Act**

GC §18500(c)(5)	State's Non-discrimination Policy
GC §§19230-19237	Hiring of Disabled Persons
GC §§19240-19241	Limited Examination and Appointment Program
GC §§19400-19406	Upward Mobility
GC §19572(w)	Discrimination a Cause for Disciplinary Action
GC §§19700-19706	Discrimination
GC §§19790-19799	State Civil Service Equal Employment Opportunity Program

**California Code of Regulation, Title II, Division I, Chapter I**

§ 53.2	Reasonable Accommodation Appeals
§ 54	Discrimination Complaint Process
§ 54.2	Discrimination Complaint Standards for Appointing Powers
§ 547	Discrimination Prohibition
§ 547.1	Procedures for Resolving Discrimination Complaints
§§ 547.50-547.57	Limited Examination and Appointment Program
§ 547.80	Equal Employment Opportunity Definitions
§§ 547.82-547.87	Upward Mobility

## ATTACHMENT F

### EXECUTIVE DEPARTMENT

### STATE OF CALIFORNIA

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### EXECUTIVE ORDER S-6-04 by the Governor of the State of California

WHEREAS, this nation and state were founded on the principle of freedom and equality; and

WHEREAS, Congress enacted the landmark Title VII of the Civil Rights Act of 1964, making equal employment opportunity without discrimination the law of the land; and

WHEREAS, the 1972 amendment to the Civil Rights Act extended these provisions to all governmental agencies; and

WHEREAS, numerous federal and state laws, regulations and executive orders prohibit discrimination in employment against any person based on race, color, religion, sex, national origin, age, ancestry, disability, marital status or sexual orientation in the California state civil service system; and

WHEREAS, the California labor force is comprised of skilled and talented workers from all segments of the state's richly diverse population, enabling the state to lead the nation in innovation; and

WHEREAS, this work force diversity is of great value in building a more inclusive and qualified state civil service whose highest principle is duty to an equally diverse public; and

WHEREAS, this administration is strongly committed to ensuring equality of employment opportunity in all aspects of employment where every person can enjoy to their fullest capability the birthrights of our democracy.

NOW, THEREFORE, I, ARNOLD SCHWARZENEGGER, Governor of the State of California, by virtue of the power and authority vested in me by the Constitution and laws of the State of California, do hereby issue this order to become effective immediately:

1. Equal employment opportunity for all individuals is the policy of the State of California in all its activities. All state officials, managers and supervisors shall vigorously enforce this policy.
2. All state agencies, departments, boards, and commissions shall recruit, appoint, train, evaluate and promote state personnel on the basis of merit and fitness, without regard to age, race, ethnicity, color, ancestry, national origin, gender, marital status, sexual orientation, religion, disability or other non-job-related factors.
3. All state agencies, departments, boards and commissions shall have clear, written directives to carry out this policy and to guarantee equal employment opportunity, without retaliation or reprisal, at all levels of state government.
4. All state agencies, departments, boards and commissions shall regularly review their employment practices to ensure equality of opportunity in employment. Such actions include the use of inclusive recruitment, properly validated selection procedures and the elimination of non job-related and discriminatory practices.
5. All state agencies, departments, boards and commissions shall fully comply with all constitutional and civil service statutory and regulatory requirements to administer and enforce this policy.
6. The State Personnel Board shall provide statewide leadership, coordination, technical guidance and enforcement regarding efforts to fully achieve equal employment opportunity and non-discriminatory employment practices within the state civil service.

**IN WITNESS WHEREOF** I have here unto set my hand and caused the Great Seal of the State of California to be affixed this the thirty-first day of March 2004.



/s/ Arnold Schwarzenegger

Governor of California